

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER,)	
)	
Petitioner,)	4:07cv3072
)	
vs.)	MEMORANDUM AND ORDER
)	
ROBERT HOUSTON,)	
)	
Respondent.)	

In the above-entitled habeas corpus case, I granted the Application for Leave to Proceed In Forma Pauperis ("IFP"), filed by the petitioner, Billy Tyler. Mr. Tyler brought this action alleging that on the eve of his discharge from the custody of the Nebraska Department of Correctional Services ("DCS"), DCS officials brought him, in chains, before a judge of the District Court of Lancaster County, Nebraska, to be arraigned on a trumped-up charge of making terroristic threats in a letter to a member of the Nebraska Board of Parole. The petitioner stated that his constitutional rights had been violated because the letter did not meet the elements of the charged offense, and his First Amendment freedoms were at stake.

I ordered the petitioner to show cause why this case should not be dismissed, without prejudice, so that he could exhaust his habeas claims in the state courts. However, since that order, Mr. Tyler has filed a new claim in this court, Case No. 8:07cv124, Tyler v. Green, et al., in which he states that the trumped-up terroristic threat charge was summarily thrown out by the District Court of Lancaster County. Therefore, this case has become moot and will be dismissed without prejudice.

THEREFORE, IT IS ORDERED:

1. That because the charges protested by Mr. Tyler in his Petition for Writ of Habeas Corpus have been dismissed, the above-entitled habeas corpus action is moot;
2. That Mr. Tyler's Petition for Writ of Habeas Corpus and this action are dismissed without prejudice; and
3. That judgment will be entered accordingly.

DATED this 9th day of April, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
Chief District Judge